

REMARKS

Claims 15-41 are allowed. Claims 42-51 are objected to, claims 1-13 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Sundar et al. (U.S. Patent Application Publication Number US2003/0134636A1, hereinafter “Sundar”) in view of Soong et al. (U.S. Patent Application Publication Number US2004/0166865A1, hereinafter “Soong”) and claim 52 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Sundar and Soong and further in view of Koo et al. (U.S. Patent Application Publication Number US2003/0117969A1, hereinafter “Koo”). Respectfully disagreeing with these rejections, reconsideration is requested by the applicant. Nonetheless, the applicant has amended independent claim 1 in an effort to more expeditiously obtain an allowance of all of the claims in the present application. In addition, the applicant has amended claims 42-48 and 51 to address the objections with respect to the “adapted to” language. (Note that claims 49 and 50 did not contain the “adapted to” language.)

As independent claim 1 recites “providing, by a cell in the mobile communication system, data transmission services via a forward link; **indicating, by the cell, to an MS that the cell will not provide data transmission service to the MS via the forward link**” (emphasis added). Citing Soong [0031], the Examiner asserts that the HDM of Soong FIG. 4 step g indicates that the serving BTS will not provide service and indicates a new active set. Soong [0031] reads as follows (emphasis added):

[0031] FIG. 4 illustrates an exemplary rescue procedure according to the cdma2000 standard. When a BTS 24 recognizes that a mobile station 100 has stopped transmitting (a), the BTS 24 sends a handoff request (b) to the BSC 22. The handoff request includes a flag that is set to indicate a rescue handoff. The BSC 22 selects one or more target BTSs 24 from the BTSs 24 identified in the PSMM from the mobile station 100. The BSC 22 sends a rescue notification message to the target BTSs 24 with rescue capability (c), referred to herein as rescue BTSs 24, to listen for the mobile station 100. These rescue BTSs 24 begin listening for the mobile station 100 but do not transmit frames on the forward link until mobile station 100 is acquired. After disabling its transmitter, the mobile station 100 autonomously promotes one or more BTSs 24 from its neighbor list

with rescue capability into its active set, re-enables its transmitter, and starts transmitting reverse traffic frames (d) on a reverse traffic channel. The mobile station 100 also transmits an extended pilot strength measurement message (EPSMM) identifying the newly-promoted BTSS 24. If a rescue BTS 24 receives the reverse traffic frames and EPSMM from the mobile station 100, it transmits the reverse traffic frames and EPSMM received from the mobile station 100 to the base station controller 22 (e) and begins transmitting forward link frames to the mobile station 100 over the forward call recovery channel (f). **The BSC 22 sends a handoff direction message (g) to the mobile station 100 over the forward call recovery channel to effect a handoff. The handoff direction message identifies the new active set for the mobile station 100. The new active set may include one or more BTSSs from the old active set, but the Walsh codes for the traffic channels may be changed.** After performing the handoff, the mobile station 100 sends a handoff completion message (HCM) to the BSC 22 (h), and begins transmitting on the reverse link channel to the BTSS 24 designated in the handoff direction message (i). When the handoff is completed, the call recovery channel is freed for use by another mobile station 100.

While the applicant recognizes that the HDM of Soong is a similar indication to that which the present claims recite, the applicant submits that they are substantially different. Claim 1 recites “indicating, by the cell, to an MS that the cell **will not provide data transmission service to the MS** via the forward link” (emphasis added), while the HDM described in Soong [0031] is sent to effect a handoff of the MS and to identify a new active set for the MS. The applicant submits that Soong is describing a rescue procedure triggered by the receipt of 12 consecutive bad frames (see [0030]). The HDM is facilitating a handover of the MS in order to reestablish its call before it drops. The current active set BTS is not indicating that it will not provide data transmission service to the MS. In fact, Soong continues in [0031] by saying that the “new active set may include one or more BTSSs from the old active set.” Thus, the serving BTS may remain in the new active set indicated to the MS. The applicant submits that this is substantially different than what claim 1 recites.

The Examiner’s thoughtful reply in the *Response to Arguments* section of the previous office action is appreciated; however, the applicant respectfully disagrees with the arguments presented. The Examiner asserts that the process of cell handoff from one BTS to another BTS inherently implies that the serving BTS will not provide data transmission service to the MS and the new BTS will begin the data transmission. However, the applicant submits that the process of cell handoff from one BTS to

another BTS does not **inherently imply** that the serving BTS will not provide data transmission service to the MS, since a mobile may start the process of cell handoff but not actually complete a handoff. It may remain with the serving BTS, particularly if wireless conditions dramatically improve, as is entirely possible due to the well-known irregularity and dynamic nature of RF coverage. As the applicant noted above, Soong implies this very situation in [0031] by saying that the “new active set may include one or more BTSs from the old active set,” for example, the serving BTS. Claim 1 recites “indicating, by the cell, to an MS that the cell **will not provide data transmission service to the MS** via the forward link” (emphasis added). Thus, the cell in claim 1 is indicating that data transmission service to the MS **will not be provided**. In contrast, the applicant submits that Soong is describing a rescue procedure triggered by the receipt of 12 consecutive bad frames (see [0030]) in which the BTS is indicating that there are likely better cells from which to obtain service (i.e., the new active set) but not that the BTS will not provide service to the MS.

The Examiner also asserts that “given its broadest interpretation, the cell can stop data transmission by indicating to the MS once it has gone beyond transmission limits of the serving cell, and therefore the limitation as cited is met by Sundar et al.” Office action pages 12-13. First, the applicant is not clear regarding what in Sundar the Examiner is referring to, since the Examiner states that “Sundar does not teach indicating by the cell to an MS that the cell will not provide data transmission service to the MS via the forward link.” Office action page 2. Second, the applicant does not understand how “the cell can stop data transmission by indicating to the MS once it has gone beyond transmission limits of the serving cell.” Office action pages 12-13. If the MS is beyond the transmission limits of the serving cell, how can the cell indicate anything to the MS? Again, even in view of the Examiner’s response, it is not clear how the cited art or well-known cellular operation teaches or suggests a cell indicating to an MS that the cell **will not provide data transmission service to the MS** via a forward link that the cell uses to provide data transmission services. The applicant submits that the Examiner has not explained how the prior art teaches **a cell indicating this to an MS**.

However, the applicant has further amended independent claim 1 in an effort to more expeditiously obtain its allowance. To more clearly highlight the arguments made above the applicant has amended claim 1 to recite "indicating, by the cell, to an MS that the cell will not provide data transmission service to the MS via the forward link in order to force the MS to select another cell for at least the forward link data transmission service." Thus, the applicant submits that claim 1 now even more clearly recites what the cited art fails to teach or suggest, that being a cell indicating to an MS that the cell **will not provide data transmission service to the MS** via a forward link that the cell uses to provide data transmission services. In effect then, the cell is forcing the MS to select another cell for at least the forward link data transmission service.

Since none of the references cited, either independently or in combination, teach all of the limitations of independent claim 1, or therefore, all the limitations of its respective dependent claims, it is asserted that neither anticipation nor a *prima facie* case for obviousness has been shown. No remaining grounds for rejection or objection being given, the claims in their present form are asserted to be patentable over the prior art of record and in condition for allowance. Therefore, allowance and issuance of this case is earnestly solicited.

The Examiner is invited to contact the undersigned, if such communication would advance the prosecution of the present application. Lastly, please charge any additional fees (including extension of time fees) or credit overpayment to Deposit Account No. **502117 -- Motorola, Inc.**

Respectfully submitted,
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